

United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 10-5014

September Term 2011

1:04-cv-02009-ESH-JMF

Filed On: September 13, 2011

Wilfred Samuel Rattigan,

Appellee

v.

Eric H. Holder, Jr., Attorney General, United  
States Department of Justice,

Appellant

**BEFORE:** Rogers, Tatel, and Kavanaugh, Circuit Judges

**ORDER**

Upon consideration of appellant's petition for rehearing and the response thereto, it is

**ORDERED** that the petition be granted. This case is scheduled for oral argument before the above-named panel at 9:30 a.m. on December 7, 2011. It is

**FURTHER ORDERED** that the judgment filed June 3, 2011, be vacated. It is

**FURTHER ORDERED** that briefing be limited to the following issues:

(1) Does *Egan's* bar on judicial review of national security clearance decisions extend to actions by employees outside of the Security Division?

(2) If *Egan's* bar does not extend to decisions by employees outside the Security Division, would allowing Title VII retaliation claims against such employees chill their reporting of information involving suspicion of national security concerns to the Security Division pursuant to Executive Order 12,968? If so, why? Would departmental complaint procedures not also chill such reporting?

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(3) If the court were to allow Title VII retaliation claims based on referrals of knowingly false information, does any record evidence in this case support such a claim? If not, should a remand be ordered?

It is

**FURTHER ORDERED** that the following briefing format and schedule apply in this case:

Brief for Appellant (not to exceed 8,750 words)	October 11, 2011
Brief for Appellee (not to exceed 8,750 words)	November 10, 2011
Reply Brief for Appellant (not to exceed 4,375 words)	November 25, 2011

Parties are directed to hand deliver the paper copies of their briefs to the Clerk's office on the date due. All brief and appendices must contain the date the case is scheduled for oral argument at the top of the cover. See D.C. Cir. Rule 28(a).

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Michael C. McGrail  
Deputy Clerk